

The Commonwealth of Massachusetts

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In the Year One Thousand Nine Hundred and Ninety-Eight.  
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Chapter 358

AN ACT RELATIVE TO THE ISSUANCE OF FIREARM LICENSES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to further regulate the issuance of firearm licenses in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 168B of chapter 6 of the General Laws is hereby amended by striking out the figures "122 to 131P", inserted by section 1 of chapter 180 of the acts of 1998, and inserting in place thereof the following figures:- 121 to 131P.

SECTION 2. Section 12A of chapter 112 of the General Laws is hereby amended by striking out the last sentence, added by section 5 of chapter 180 of the acts of 1998, and inserting in place thereof the following sentence:- The colonel of state police shall make available to the commissioner of public health all reports regarding: (i) bullet wounds, gunshot wounds, powder burns or any other injury arising from or caused by the discharge of a rifle, shotgun, firearm or air rifle; (ii) burn injuries affecting per cent or more of the surface area of the human body; and (iii) wounds or injuries caused by a knife or other sharp or pointed instrument; provided, however, that personal information identifying the victim or the perpetrator may be redacted if the release of such information may compromise an investigation.

SECTION 3. Clause Eighteenth of section 123 of chapter 140 of the General Laws, as appearing in section 19 of said chapter 180, is hereby amended by striking out the fifth sentence and inserting in place thereof the following sentence:- A firearm shall pass this test if it fires the first 20 rounds without a malfunction, fires the full 600 rounds with not more than six malfunctions and completes the test without any crack or breakage of an operating part of the firearm.

SECTION 4. section 129B of said chapter 140, as amended by section 29 of said chapter 180, is hereby further amended by striking out paragraph (3) and inserting in place thereof the following paragraph:-

(3) The licensing authority may not prescribe any other condition for the issuance of a firearm identification card and shall, within 40 days from the date of application, either approve the application and issue the license or deny the application and

notify the applicant of the reason for such denial in Writing; provided, however, that no such card shall be issued unless the colonel has certified, in writing, that the information available to him does not indicate that the possession of a rifle or shotgun by the applicant would be in violation of state or federal law.

SECTION 5. The fourth paragraph of section 129C of said chapter 140 is hereby amended by striking out clause (r), as appearing in the 1996 Official Edition, and inserting in place thereof the following clause:-

(r) Possession by a veteran's organization chartered by the Congress of the United States, chartered by the commonwealth or recognized as a nonprofit tax-exempt organization by the Internal Revenue Service and possession by the members of any such organization when on official parade duty or ceremonial occasions.

SECTION 6. Paragraph (d) of section 131 of said chapter 140, as appearing in section 41 of chapter 180 of the acts of 1998, is hereby amended by striking out the introductory paragraph and inserting in place thereof the following paragraph:-

Any person residing or having a place of business within the jurisdiction of the licensing authority or any person residing in an area of exclusive federal jurisdiction located within a city or town may submit to such licensing authority or the colonel of state police, an application for a Class A or Class B license to carry firearms, or renewal of the same, which such licensing authority or said colonel may issue if it appears that the applicant is a suitable person to be issued such license, and that the applicant has good reason to fear injury to his person or property, or for any other reason, including the carrying of firearms for use in sport or target practice only, subject to such restrictions expressed or authorized under this section, unless the applicant:.

SECTION 7. Said section 131 of said chapter 140, as so appearing, is hereby further amended by striking out paragraph (j) and inserting in place thereof the following paragraph:-

(j)(1) No license shall be required for the carrying or possession of a firearm known as a detonator and commonly used on vehicles as a signaling and marking device, when carried or possessed for such signaling or marking purposes.

(2) No license to carry shall be required for the possession of an unloaded large capacity rifle or shotgun or an unloaded feeding device therefor by a veteran's organization chartered by the Congress of the United States, chartered by the commonwealth or recognized as a nonprofit tax-exempt organization by the Internal Revenue Service, or by the members of any such organization when on official parade duty or during ceremonial occasions. For purposes of this subparagraph, an "unloaded large capacity rifle or shotgun" and an "unloaded feeding device therefor" shall include any large capacity rifle, shotgun or feeding device therefor loaded with a blank cartridge or blank cartridges, so-called, which contain no projectile within such blank or blanks or within the bore or chamber of such large capacity rifle or shotgun.

SECTION 8. Paragraph (m) of said section 131 of said chapter 140, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Notwithstanding the provisions of section 10 of chapter 269, any person in possession of a firearm, rifle or shotgun whose license issued under this section is invalid for the sole reason that it has expired, but who shall not be disqualified from renewal upon application therefor under this section, shall be subject to a civil fine of not less than \$500 nor more than \$5,000 and the provisions of section 10 of chapter 269 shall not apply; provided, however, that the exemption from the provisions of said section 10 of said chapter 269 provided herein shall not apply if: (i) such license has been revoked or suspended, unless such revocation or suspension was caused by failure to give notice of a change of address as required under this section; (ii) revocation or suspension of such license is pending, unless such revocation or suspension was caused by failure to give notice of a change of address as required under this section; or (iii) an application for renewal of such license has been denied.

SECTION 9. Paragraph (o) of said section 131 of said chapter 140, as so appearing, is hereby amended by striking out the introductory paragraph and inserting in place thereof the following paragraph:-

No person shall be issued a license to carry or possess a machine gun in the commonwealth, except that a licensing authority or the colonel of state police may issue a machine gun license to:.

SECTION 10. Chapter 269 of the General Laws is hereby amended by striking out section 12D, as amended by section 72 of said chapter 180, and inserting in place thereof the following section:-

Section 12D. (a) Except as exempted or provided by law, no person shall carry on his person on any public way a loaded rifle or shotgun having cartridges or shells in either the magazine or chamber thereof. For purposes of this section, "loaded shotgun or loaded rifle" shall mean any shotgun or rifle having ammunition in either the magazine or chamber thereof, such ammunition including a live cartridge, primer (igniter), bullet or propellant powder designed for use in any firearm, rifle or shotgun and, in the case of a muzzle loading or black powder shotgun or rifle, so-called, a shotgun or rifle containing powder in the flash pan or in the bore or chamber or containing a percussion cap, shot or ball; provided, however, that "loaded shotgun or loaded rifle" shall not include a shotgun or rifle loaded with a blank cartridge, so-called, which contains no projectile within such blank or within the bore or chamber of such shotgun or rifle.

Whoever violates the provisions of this subsection shall be punished by a fine of not less than \$500 nor more than \$5,000 or by imprisonment in the house of correction for not more than two years, or by both such fine and imprisonment, and may be arrested without a warrant; provided, however, that if such rifle or shotgun is a large capacity weapon, as defined in section 121

of chapter 140, such person shall be punished by a fine of not less than \$1,000 nor more than \$10,000 or by imprisonment for not less than one year nor more than ten years, or by both such fine and imprisonment, and may be arrested without a warrant.

(b) Except as exempted or provided by law, no person shall carry on his person on any public way an unloaded rifle or shotgun, unless such rifle or shotgun is enclosed in a case. Whoever violates the provisions of this subsection shall be punished by a fine of not less than \$100 nor more than \$1,000, and may be arrested without a warrant; provided, however, that if such unloaded rifle or shotgun is a large capacity weapon and is carried simultaneously with a fully or partially loaded large capacity feeding device, such person shall be punished by a fine of not less than \$1,000 nor more than \$10,000 or by imprisonment for not less than one year nor more than ten years, or by both such fine and imprisonment, and may be arrested without a warrant.

This subsection shall not apply to drills, parades, military reenactments or other commemorative ceremonies, color guards or memorial service firing squads, so-called, as permitted by law.

(c) Upon a conviction of a violation of any provision of this section, such rifle or shotgun shall be confiscated by the commonwealth and, upon written order of the court, such weapon shall be forwarded to the colonel of the state police, who may dispose of such weapon in the manner prescribed in section 10.

(d) The provisions of this section shall not apply to the carrying of a loaded or unloaded rifle or shotgun on a public way by (i) any officer, agent or employee of the commonwealth or any other state or the United States, including any federal, state or local law enforcement personnel; (ii) any member of the military or other service of any state or the United States, including members of the national guard, reserves and junior reserve officer training corps; (iii) any duly authorized law enforcement officer, agent or employee of any municipality of the commonwealth; provided, however, that any such person described in clauses (i) to (iii), inclusive, shall be authorized by a competent authority to so carry a loaded or unloaded rifle or shotgun on a public way and such person is acting within the scope of his duties or training; or (iv) a person who is lawfully engaged in hunting and is the holder of a valid hunting or sporting license issued pursuant to chapter 131. This section shall not apply to the operation of a shooting gallery, licensed and defined under the provisions of section 56A of chapter 140, nor to persons using the same.

SECTION 11. Chapter 180 of the acts of 1998 is hereby amended by striking out section 73 and inserting in place thereof the following section:-

Section 73. Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, all firearm identification cards issued under section 129B of chapter 140 of the General Laws prior to the effective date of this act shall expire on the following schedule: if a person's anniversary of birth is between July 1 and December 31, inclusive, such card shall expire on the cardholder's anniversary of birth in 1999; if a person's anniversary of birth is between January 1 and June 30, inclusive, such card shall expire on the holder's anniversary

of birth in 2000. Any such card issued to an applicant born on February 29, for the purposes described herein, shall expire on March 1. A firearm identification card lawfully possessed on the effective date of this act shall be valid, unless revoked or suspended, until it expires under this section for the purpose of possessing large capacity rifles or shotguns or large capacity feeding devices therefor or possessing any firearm or feeding device lawfully owned on the effective date of this act that was purchased with a permit issued under section 131A of said chapter 140; provided, however, that such card shall not be valid for the purpose of purchasing, leasing or otherwise receiving through transfer large capacity rifles or shotguns or large capacity feeding devices. Nothing herein shall prohibit such person from possessing, purchasing, leasing or otherwise receiving through transfer nonlarge capacity rifles, shotguns or ammunition feeding devices therefor or from applying for a license to carry firearms pursuant to the provisions of said section 131 of said chapter 140.

Any person who lawfully owns a large capacity or nonlarge capacity firearm or feeding device therefor, on the effective date of this act that was purchased with a permit issued under said section 131A of said chapter 140 shall, unless such firearm and feeding device are transferred in accordance with the provisions of said chapter 140, apply for a firearm identification card under the provisions of section 129B of said chapter 140. Unless such applicant is disqualified under the provisions of said section 129B, such card shall be issued; provided, however, that if such card may not be issued, all firearms, ammunition and ammunition feeding devices therefor shall be surrendered in accordance with the provisions of section 129D of said chapter 140; provided further, that the requirements for obtaining a card under said section 129B shall not apply to such person that possesses valid proof of exemption under the provisions of section 129C of said chapter 140. Nothing herein shall permit such person to possess or carry any firearm outside his residence or business unless such person obtains a Class A or Class B license to carry firearms pursuant to the provisions of said section 131 of said chapter 140.

Any license to carry firearms lawfully possessed on the effective date of this act shall be valid, unless revoked or suspended, until the stated expiration date of such license for all lawful purposes for which it was issued and such license shall be deemed a Class A license.

The secretary of the executive office of public safety or his designee shall promulgate regulations necessary to implement the provisions of this act, and shall ensure that notice be provided through the most effective means possible to each such cardholder and licensee of the upcoming expiration dates of such cards and licenses, and instructing such holders with regard to renewal procedures, entitlements and restrictions provided under this act including, but not limited to, entitlements and restrictions relative to large capacity weapons and ammunition feeding devices.

SECTION 12. This act shall take effect on October 21, 1998.

House of Representatives, October 15, 1998.

Preamble adopted, (A. Stephen Tobin), Acting Speaker.

In Senate, October 15, 1998.

Preamble adopted, (Linda J. Melconian), Acting President.

House of Representatives, October 15, 1998.

Bill passed to be enacted, (A. Stephen Tobin), Acting Speaker.

In Senate, October 15, 1998.

Bill passed to be enacted, (Linda J. Melconian), Acting President.

October 19, 1998.

Approved at NA.

(Argeo Paul Cellucci), Acting Governor.